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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.      |
|---|-------------|----------------------|---------------------|-----------------------|
| 10/576,212  | 04/17/2006  | Takashi Chosa        | 00862.109336        | 7014                  |
| 5514  | 7590        | 12/15/2009           | EXAMINER            |                       |
| FITZPATRICK CELLA HARPER & SCINTO<br>1290 Avenue of the Americas<br>NEW YORK, NY 10104-3800 |             |                      |                     | TEJANO, DWIGHT ALEX C |
| ART UNIT  |             | PAPER NUMBER         |                     |                       |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/576,212             | CHOSA ET AL.        |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Dwight Alex C. Tejano  | 2622                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 October 2009.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 5-12,20 and 74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 5-12,20 and 74 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 July 2009 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>13 Oct 2009, 29 Oct 2009</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Response to Arguments***

**Applicant's arguments** with respect to claims 5 - 12 and 20 **have been considered but are moot** in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 5 – 12, 20, and 74 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, **claim 5** states that the “capturing unit selectively captures a generic image to be retrieved and a key image to be used as a retrieval key of the retrieval operation.”

The specification is not descriptive enough to enable one skilled in the art to perform this operation. First, there is no perceived way that the invention could “selectively” capture a generic image for retrieval *and* a key image for retrieving at the

same time. Fig. 3 of the Applicant's specification illustrates a state machine that clearly shows that the key image photographing mode (T4) and the generic mode ("usual photographing," T3) being separate states/processes that are instantiated by distinct button combinations/jog dial settings.

Given this and the inclusion of the word "selectively" in the claim implies that claim 5 should read "captures a generic image to be retrieved *or* a key image to be used as a retrieval key" (emphasis added.) For the purposes of prior art rejection, this claim language will be understood as proper.

**Claims 6 – 12, 20, and 74** are all ultimately dependent on claim 5 and thus inherit the rejection.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 5 – 12, 20, and 74 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01.**

**Claim 5** states that the "capturing unit captures a subject image" and further states that "said capturing unit captures a generic image to be retrieved [or] a key image to be used as a retrieval key of the retrieval operation." Because the retrieval operation is instigated by the subject image as listed in the third limitation of the claim ("retrieval

operation of an image from the subject image,") there must be some correlation between "a subject image," "a generic image," and "a key image." However, this structural cooperative relationship is omitted.

In the claim's current state, the claim seems to imply three separate captures by the capturing unit: two of which (capture of a subject image and capture of a key image) perform a retrieval operation and one (capture of a generic image) that does not perform retrieval, but rather is saved for later retrieval. However, a retrieval process must take place according to the third and last limitations of the claim.

The Examiner currently understands the claimed invention, as best construed by the Applicant's specification, as a capturing of a subject image, which is then designated as a generic image or key image, and, if designated a key image, is used as a retrieval key of the retrieval operation. The state machine of Fig. 3 also supports this understanding, as the imaging mode (T1) captures either a generic ("usual," T3) or key image (T4), which then starts retrieval (T5.) However, this process is clearly not the one that is claimed.

Because the cooperative relationships among the elements are not clear, the claim is seemingly incomplete insofar as understanding the bounds of the claimed invention.

**Claims 6 – 12, 20, and 74** are all ultimately dependent on claim 5 and thus inherit the rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 5, 8, 10, 20, and 74 are rejected under 35 U.S.C. 102(e) as being anticipated by Darrell, et al. (US 20050162523 A1.)**

Regarding **claim 5**, Darrell, et al. (hereafter, “Darrell”) discloses a digital camera (mobile deixis device, 10) comprising:

- A capturing unit (camera, 12) that captures a subject image (object, 90)
- A storing unit that stores the subject image captured by said capturing unit on a storage medium (storage medium, 32, must store the image in order for the rest of the processes to function)
- A retrieving unit that performs a retrieval operation of an image from the subject image stored on the storage medium (computer, 24, with database, 25, that finds similar images from the image taken from the storage medium) [0021]

- Wherein said capturing unit selectively captures a generic image to be retrieved [or] a key image to be used as a retrieval key of the retrieval operation according to the operation of a shutter button (after the shutter button is pressed, the camera, 12, captures an image {key image} which is then processed to find similar images {used as a retrieval key of the retrieval operation}) [0021, 0024]
- When said retrieving unit starts the retrieval operation using the key image in response to capturing the key image by said capturing unit (Fig. 2, similar images, 220, are produced in response to "snapping" an image, 210) [0025]

Regarding **claim 8**, Darrell discloses the digital camera of claim 5 and further that the storing unit (storage medium, 32) stores the generic image to be retrieved (downloads and stores the plurality of similar images with associated hyperlinks from database to be shown to user, [0026]) and stores the key image to be used as a retrieval key of a retrieval operation on the identical storage medium (storage medium, 32, also holds the image that was just captured and used as a key image for search.)

Regarding **claim 10**, Darrell discloses the camera of claim 8 and that information different from file management information for the generic image is attached to file management information for the key image (the retrieved similar images also contain hyperlinks associated with each image, [0026.])

Regarding **claim 20**, Darrell discloses the limitations of claim 5 and further that the user designates an image specified as a key image (image captured for image retrieval, 210) or an image appearing from a retrieval result (images retrieved, 220) and presses a retrieval button (“selecting a thumbnail” must inherently have some user interaction) to cause said retrieving unit (computer, 24) to execute a retrieval operation again (retrieves source webpage, 230) with the designated image as a key image (selecting an image from the retrieval result, 220) [0028] (Fig. 5A.)

Regarding **claim 74**, Darrell discloses the limitations of claim 5 and further that the retrieving unit (computer, 24) searches for a generic image (any of the images retrieved, 220) similar to the key image from the storage medium (finds similar images from the image captured, 210) [0021] (Fig. 4A.)

**Claims 5, 7 – 9, 11, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Teicher (US 20010032070 A1.)**

Regarding **claim 5**, Teicher discloses a digital camera (camera, 1) comprising:

- A capturing unit (CCD, 4, controlled by control panel, 9, according to user-operated camera controls, 11) that captures a subject image (image shown on screen, 5)
- A storing unit that stores the subject image captured by said capturing unit on a storage medium (memory, 6) [0019]

- A retrieving unit that performs a retrieval operation of an image from the subject image stored on the storage medium (OCR, 13, and Translator, 14, extracts and retrieves translated text from the image stored in the memory) [0021]
- Wherein said capturing unit selectively captures a generic image to be retrieved [or] a key image to be used as a retrieval key of the retrieval operation according to the operation of a shutter button (after the shutter button is pressed on the camera controls, 11, the camera, 1, captures an image on the CCD {generic image} as shown on screen, 5, and text is then selected and extracted through the control panel {capturing key image} to be used in a translation retrieval {used as a retrieval key of the retrieval operation}) [0019]
- When said retrieving unit starts the retrieval operation using the key image in response to capturing the key image by said capturing unit (the translation option is started in response to the selection of the text via the control panel) [0019]

Regarding **claim 7**, Teicher discloses the digital camera of claim 5 and further that the capturing unit (CCD, 4, and control panel, 9) captures the key image in a mode other than an imaging mode (cursor control selection mode, [0019]) said retrieving unit starts the retrieval operation using the key image (key image selection begins the translation retrieval process) [0019.]

Regarding **claim 8**, Teicher discloses the digital camera of claim 5 and further that the storing unit stores the generic image to be retrieved on the storage medium and stores the key image to be used as a retrieval key of a retrieval operation on the identical storage medium (memory, 6, holds both current image memory {selected key image section} and the images previously taken {generic.})

Regarding **claim 9**, Teicher discloses the camera of claim 8 and further that the storing areas (current image memory, 7, and image storage memory, 8) for the generic image and for the key image in the storage medium are separated.

Regarding **claim 11**, Teicher discloses the camera of claim 8 and further that, in storing the key image on the storage medium, the key image is stored after compression or curtailment of the image subject image is performed. Specifically, Teicher discloses that the key image (text extracted section of the image) is retrieved and stored. Because this extraction is an extracted portion of the total subject image, it is an inherent “curtailment” of the image subject image.

Regarding **claim 12**, Teicher discloses the digital camera according to claim 8 and further that the key image stored on the storage medium is copied, changed, or linked to the generic image. Specifically, the key image, being a section of the total generic image, is inherently “linked to” the generic image.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teicher in view of Misawa (US 2002/0180873 A1.)**

Regarding **claims 6**, Teicher meets the limitations of claim 5, as discussed previously. However, Teicher fails to disclose the capturing of a key image by pressing a shutter button and a retrieval button simultaneously and instigating a retrieval operation as a result, as disclosed in the instant application. Despite this, the Examiner maintains that the use of simultaneous button presses to execute actions was well known in the art, as disclosed by Misawa.

Within the same digital camera art, Misawa discloses an imaging apparatus that includes a storing operation that is instigated by simultaneously pressing the menu, execute, and the shutter buttons [0044.] Misawa further discloses that this simultaneous pressing is required so that the user does not easily enter into the storing operation when storing is not desired.

Because the invention disclosed in Teicher is involved with extracting and translating image text, it would be obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings Misawa and Teicher. Functionally, it

would be fairly simple to map the “execute” and “shutter” buttons of Misawa to the “Translate” and “Shutter” buttons that are already present in Teicher.

More importantly, however, Misawa’s multiple button press would require that user consciously designate a section to be translated (set as a key image) that starts the retrieval process in Teicher’s system, thereby preventing unnecessary space in the memory card from being taken up when such is not desired.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwight Alex C. Tejano whose telephone number is (571)

270-7200. The examiner can normally be reached on Monday through Friday 10:00-6:00 with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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